

The Middletown Zoning Board Of Review held it's regular monthly meeting on May 27,2008 at 7:00 p.m.. Present at this meeting were Chairman- Tom Silveira- Vice Chair- Peter Van Steeden,Secretary- Lucy Levada. Voting Board Members-Melissa Massey,Tom Newman Alternants, Richard Cambra, Greg Schults. Town Solicitor- Michael Miller and Zoning Officer Jack Kane Absent was Steve MacGillivary..

A motion was made by Peter Van Steeden and second by Tom Newman to accept the Secretary's minutes of April 22,2008. Motion carried 5-0

Withdrawals:

A motion was made by Melissa Massey and second by Lucy Levada to withdraw without prejudice the petition of Holly McLear. Motion carried 5-0

Continuances:

- 1. Appeal of : Karmik LLC-----June 24,2008**
- 2. Petition of: Samantha & James Leduc- 272 Boulevard----- June 24,2008**
- 3.. Petition of: Eben Roy- 2 Champlin Terr.-----June 24,2008**

4. Petition of; M. Stephen Bucolo- 168 Busher Dr----- June24,2008

5. Petition of: John R. Gullison-51 Aquidneck Ave.-----June 24,2008.

6. Petition of : William & Yolander Heine-8704 Blue Creek Cove ,Texas-----June 24,2008

1.Appeal of Barry Smith-768 Jepson Lane-Middletown, R.I.-(owner)- by their attorney Kenneth Trembly- 181 Chase Rd. Portsmouth, R.I.- to appeal the decision of the building Official to issue a Building Permit # 2007-0659 dated December 28,2007 to construct an 80x50 accessory structure. The petitioner disputes that the structure is clearly not incidental and secondary accessory as permitted in Article 6 Table 6-1 (Accessory Uses) and Article 7 Section 703-A-Said real estate is located at Jepson Ln. And further identified as lot 84-A on Tax Assessor's plat 117.

Barry Smith (applicant) was sworn in and testified that this garage was not suitable for the area as this property was subdivided . He has property in Florida and was vacationing there .When he returned from Florida and seen the size of this Accessory structure, he stated that 80x50 is to large and is in his back yard.

exhibit A- Foot Print of garages. Chairman Tom Silveira asked how big was this land , Mr. Smith stated 7.5 acres. Building inspector clearly under oath stated that this structure is an accessory use.

Michael Silveira stated under oath that the other garages will be to house his hobbies which is restoring cars and old motor cycles and personal toys.. So rather have them sitting in the drive way and being an eye sore he decided to put them inside the garages. Attorney Trembly asked the Building Official if he had ever issued a Building Permit like this one.,Mr. Kane stated yes four months ago as an Accessary Structure. The Building permit issued is listed as a Hobby Shop connected to the house to work on cycles, cars and personal toys.

Mr. Silveira stated under oath that he pushed the structure as far away as possible from neighbors Garage.He also stated that Mr. Smith would not be seeing these as they are on the other side of Page 2

his property. This is not going to be a business garage and is willing to put Lealand Cypress trees an also had a design plan to not increase run off under groung drainage so the abutters would not be hurt. Prudential Real Estate Expert testified that he view the property in question and other places and stated that this will be as large as the first floor of the town hall.and would not be suited for the area in question.

A motion was made by Peter Van Steeden and Second by Tom Newman to sustain the Building Officers decision. Motion granted 5-0

2. Petition of.-Duncan & Barbara Chapman- 556 Paradise Ave-Middletown, R.I.-(Owners)-by their attorney David P. Martland Esq.-1100 Aquidneck Ave. Middletown. R.I.for a Variance from Section 603 & 701-to permit the construction of a single family residential structure with a front yard setback of 20' where 40' is required under the Ordinance, pursuant to certain plans filed herewith. Said real estate is located at 566 Paradise Ave. And further identified as lot 3-c on Tax Assessor's Plat 127.

#Exhibit.-A- Zone one of the water shed protection district site plan front yard variance.

#Exhibit-B- Architect's drawing Dated April 24,2008

Mr. Chapman stated under oath that the driveway surface paving material is not just asphalt..Installation of qualified water trenches to lessen run off to stream and install Vegetated Buffer .the grass now goes and runs off right to the stream ..Mr. Chapman also stated that he moved his structure as far back as possible to the north west side of Zone One of the Water Shed Protection District The property in question has town water and sewage. A letter from the Planning Board Dated May 14,2008 with 4 recommended conditions.

A motion was made by Peter Van Steeden and second by Lucy Levada to grant the petition for a Variance with all the conditions from the Planning and Conservation Boards. Petition for Variance granted 5-0

3. Petition of- Duncan & BarbaraChapman-556 Paradise

Ave-Middletown,R.I.(owners)by their attorney David P. Martland Esq.-1100 Aquidneck Ave,-Middletown, R.I.-for a Special Use Permit from Section 1106B- to permit the demolition of an existing single family residential structure and construction of a new single family residential structure, pursuant to certain plans filed herewith, located in Zone One of Watershed Protection District. Said real estate is located at 556 Paradise Ave. And further identified as lot 3-c on Tax Assessor's Plat 127

A Motion was made by Melissa Massey and second by Peter Van Steeden to grant the Special Use Permit. Petition granted 5-0.

4. Petition of : Bryan Cooney-121 Prospect Ave.-Middletown, R.I.-(owner)-for a Variance from Sections 603, 701 & 803-G To construct a 14x20'-6"addition with a front yard setback of 25' where 40' is required and a 1 story bedroom and deck addition at the rear of the dwelling maintaining the existing 14' west side yard setback where 20' is required. Said real estate is located at 121 Prospect Ave. And further identified as lot 54 on Tax Assessor's Plat 120

Mr. Cooney's Artchitect Robert Morin stated that this is a 3 bedroom home and is enlarging only

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for more living space.and this is Zoned R30.

A motion was made by Tom Newman and second by Lucy Levada to grant the petition. Petition granted 5-0.

5. Petition og.-St. Columba's The Berkeley Memorial Chapel-55 Vaocluse Ave- Middletown, R.I.-(owner) Kinder Art, Inc.-146 Aquidneck Ave.-Middletown, R.I..-(Applicant)- for a Special Use Permit from Sections 602 (Table 6-1- to establish and operate a day care program at St Columba's Chapel. Said real estate is located at 55 Vaocluse Ave and further identified as Lot 69 on Tax Assessor's Plat 129.

Attorney Greg Claver is representing Lisa Rimer Kinder Art.-16 Baldwin Rd.. And Attorney Peter Regan is representing Jane Dale 515 Indian Ave. Who is objecting to this petition.

Lisa Rimer (Kinder Art) stated that she has another Kinder Art on Aquidneck Ave, and did not need a Special Use Permit. That property was Zoned for Limited Business. This new property at the Berkeley Memorial Chapel is Zoned R-40.And R60 Kinder Art will hold the Licence Father Oberson Director of the Berkeley Memorial Chapel stated that he has been at the Chapel for 2 years and his rectory is at 390 Indian Ave. And has around 500members. H e also has AA ., ALANON and other organizations meeting there during the week.. Monica Daniels is his Sunday School teacher and on Sunday's she has any where from 25 low to 45 kids tops.The Church is not responsible for the day care.Ms. Rimer is leasing the building.and will have 6 staff people and a nurse on duty from 7:30-6:00p.m.. No holidays and no week ends. James Houle Real estate expert represented Lisa Rimer. She stated that she has a day care on Aquidneck Ave. And there is a need to expand her business. Attorney

Peter Regan representing the abutters and stated that Lisa Rimer is actually going to be running a personal business on this site that has no connection with the church . Mr. Dugin real estate expert stated that this business does not belong in Zone R40-R60 and is going to be a personal business, that should not be in these zoning areas and would cause an impact in the area . Mr. George Dhionis an abutter stated that with all the other organizations that meet there during the day, this would create a great impact in the area .and would not be suitable or appropriate for children during the week..especially with the amount of cars going in and out of the day care.

A motion was made by Peter Van Steeden and second by Tom Newman to grant the petition.. Petition granted 4-1 with Lucy Levada voting to deny the petition as Ms. Rimer has no connection with the church and it is her own personal business and should not be asking for a Special Use Permit .It would create a nuisance in the area and would not be compatible with the Comprehensive Community Plan Zoning Ordinance 902 -3 & 4 of the Special use Permit

A Motion was made by Peter Van Steeden and second by Tom Newman to Adjourn

Meeting adjourned 10:40 p.m.

Respectfully Submitted

Lucy R Levada

Secretary